

Attorney Docket No.: 54704.8022.US01 (UMD-0086)
Inventors: Khaw, Kenneth
Serial No.: 10/806,939
Filing Date: March 23, 2004
Page 4

REMARKS

Claims 1-13 are pending in this application. Claims 7-13 have been withdrawn from consideration. Claims 2-6 have been rejected. Claim 2 has been amended. Claims 1 and 7-13 have been canceled. No new matter has been added by this amendment. Reconsideration is respectfully requested in light of the following remarks.

I. Election/Restriction Requirement Under 35 U.S.C. §121

The claims of the present application have been subjected to a Restriction Requirement under 35 U.S.C. §121 as follows:

Group I, claims 2-6, drawn to an apparatus for treating vascular lesions; and

Group II, claims 7-13, drawn to a method for treating a multiple branch lesion.

The Examiner has acknowledged that Inventions I and II are related as process of making and product made; however, it is suggested that the inventions are distinct because the product as claimed can be used in a materially different process such as creating an open space between tissue along blood vessel. Applicant respectfully disagrees.

However, to facilitate the prosecution of the instant application, Applicant's representative orally elected to prosecute Group I on August 22, 2006. Accordingly, Applicant hereby elects to prosecute Group I, claims 2-6, drawn to an apparatus for treating vascular lesions, classified in class 623, subclass 1.11, for prosecution. As such, Applicant has canceled claims 7-13 without prejudice reserving the right to file continuing applications for the canceled subject matter.

Attorney Docket No.: 54704.8022.US01 (UMD-0086)
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Filing Date: March 23, 2004
Page 5

II. Rejection of Claims Under 35 U.S.C. §102

Claims 2-6 have been rejected under 35 U.S.C. 102(e) as being anticipated by Simhambhatla et al. (U.S. Patent No. 6,336,936). It is suggested that Figures 1-3 disclose a shaft (13) comprising a balloon (14); a selected length of a lumen guide wire sheath (20) coupled to the balloon shaft (13) and wherein the lumen guide wire sheath (20) is being inserted through a portion of stent (16) such that the stent (16) can be crimped on the lumen guide wire sheath (20).

Applicant respectfully disagrees with the Examiner's suggestion that the present apparatus is anticipated by the teachings of Simhambhatla et al. Contrary to the teachings of Simhambhatla et al., the whole of the present disclosure and in particular Figures 5a, 5b, and 14, disclose an apparatus for use in simultaneously treating bifurcation lesions. In this regard, that present apparatus has a selected length of an exitable lumen guide wire sheath and a balloon catheter positioned along two parallel axes within a stent so that the exitable lumen guide wire sheath and balloon catheter can be positioned in independent branches of a multiple-branch vascular lesion. In contrast, the guide wire of the apparatus of Simhambhatla et al. is disposed within the balloon with no teaching or suggestion of modifying the disclosed apparatus for treating multi-branch vascular lesions. Accordingly, in an earnest effort to distinguish the present apparatus from that of the cited prior art, Applicant has amended claim 2 to clarify the relationship of the claimed elements as supported by the disclosure at paragraph [0040] and Figures 5a, 5b, and 14.

Attorney Docket No.: 54704.8022.US01 (UMD-0086)
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Serial No.: 10/806,939
Filing Date: March 23, 2004
Page 6

In order for a reference to anticipate a claim, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). MPEP §2131.

Because the cited reference fails to teach the apparatus as claimed, this reference cannot be held to anticipate the present invention. It is therefore respectfully requested that this rejection be reconsidered and withdrawn.

III. Conclusion

Applicant believes that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



Jane Massey Licata
Registration No. 32,257

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Licata & Tyrrell P.C.
66 E. Main Street
Marlton, New Jersey 08053
(856) 810-1515